IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

MICHAEL PATTON; PATRICK JOHNSON:
CHARTAVIAUNCA ODOM; DAWATHA PICKENS:
MAMIE TURNER; REGINALD EVANS;
CHARLES EVERETT; and DEANTHONY JONES **PLAINTIFF**

VS. **CAUSE NO.: 2:16-cv-186-KS-MTP**

WAYNE COUNTY, MISSISSIPPI (same entity
as Sheriff of Wayne County, Mississippi, in his
Official capacity) and
JODY ASHLEY in his individual capacity **DEFENDANTS**

WAYNE COUNTY, MISSISSIPPI AND JODY
ASHLEY'S ANSWER TO PLAINTIFFS' COMPLAINT

Come now, Wayne County, Mississippi and Jody Ashley, by and through counsel, and in response to Plaintiffs' Complaint would show unto the Court as follows:

FIRST DEFENSE

Answering defendants specifically assert and invoke all the privileges available to it as set forth in Federal R. Civ. P. 12(b)(1)-(7) for which a good faith, legal and/or factual basis exists or may exist.

SECOND DEFENSE

Plaintiffs' Complaint fails to state facts against the answering defendants which would rise to the level of a constitutional deprivation under the laws of the United States or the Constitution of the United States.

THIRD DEFENSE

Insofar as any state law claims are concerned, answering defendants invoke each and every restriction, limitation, requirement, privilege and immunity of the

Mississippi Tort Claims Act, Miss. Code Ann. § 11-46-1, *et seq.*

FOURTH DEFENSE

Answering defendants deny that they have been guilty of any actionable conduct.

FIFTH DEFENSE

Insofar as any alleged cause of action for race, sex or gender discrimination, or any portion thereof, was not contained in the charge discrimination filed with the Equal Employment Opportunity Commission within the time prescribed by 42 U.S.C. § 2000e-5(e), which statute is pled as a defense and as a statute of limitations, the Complaint should be dismissed.

SIXTH DEFENSE

ADMISSIONS AND DENIALS

COMPLAINT

And now, without waiving any defense heretofore or hereinafter set forth, answering defendants respond to the allegations of Plaintiffs' Complaint, paragraph by paragraph, as follows:

PARTIES

1. Answering defendants, upon information and belief, admit the allegations of Paragraph 1 of Plaintiffs' Complaint.

2. Answering defendants, upon information and belief, admit the allegations of Paragraph 2 of Plaintiffs' Complaint.

3. Answering defendants, upon information and belief, admit the allegations of Paragraph 3 of Plaintiffs' Complaint.

4. Answering defendants, upon information and belief, admit the allegations of Paragraph 4 of Plaintiffs' Complaint.

5. Answering defendants, upon information and belief, admit the allegations of Paragraph 5 of Plaintiffs' Complaint.

6. Answering defendants, upon information and belief, admit the allegations of Paragraph 6 of Plaintiffs' Complaint.

7. Answering defendants, upon information and belief, admit the allegations of Paragraph 7 of Plaintiffs' Complaint.

8. Answering defendants, upon information and belief, admit the allegations of Paragraph 8 of Plaintiffs' Complaint.

9. Answering defendants admit the allegations of paragraph 9 of Plaintiff's Complaint.

10. Answering defendants admit the allegations of paragraph 10 of Plaintiff's Complaint.

JURISDICTION AND VENUE

11. Answering defendants admit that this Court has jurisdiction over this matter and that venue is proper in the Eastern Division of the Southern District of Mississippi. Answering defendants deny the remaining allegations of paragraph 11 of Plaintiffs' Complaint.

12. Answering defendants deny the allegations of paragraph 12 of Plaintiffs' Complaint.

FACTUAL ALLEGATIONS

13. Answering defendants admit the allegations of paragraph 13 of Plaintiffs' Complaint.

14. Answering defendants lack information sufficient to make a determination as to the truth of the allegations of paragraph 14 of Plaintiffs' Complaint and, as such, deny the same.

15. Answering defendants lack information sufficient to make a determination as to the truth of the allegations of paragraph 15 of Plaintiffs' Complaint and, as such, deny the same.

16. Answering defendants admit the allegations of paragraph 16 of Plaintiffs' Complaint.

17. Answering defendants deny the allegations of paragraph 17 of Plaintiffs' Complaint.

18. Answering defendants deny the allegations of paragraph 18 of Plaintiffs' Complaint.

19. Answering defendants deny the allegations of paragraph 19 of Plaintiffs' Complaint.

20. Answering defendants deny the allegations of paragraph 20 of Plaintiffs' Complaint.

21. Answering defendants would state that the documents attached as Exhibit "A" and "B" speak for themselves. Answering defendants deny the remaining allegations of paragraph 21 of Plaintiffs' Complaint.

ALLEGATIONS OF LAW

22. Answering defendants repeat and incorporate by reference each and every defense, admission, and denial to paragraphs 1-21 hereinabove as if the same were specifically set out herein.

23. Answering defendants deny the allegations of paragraph 23 of Plaintiffs' Complaint to the extent they allege any unlawful or unconstitutional conduct on their part.

24. Answering defendants deny the allegations of paragraph 24 of Plaintiffs' Complaint.

25. Answering defendants deny the allegations of paragraph 25 of Plaintiffs' Complaint.

26. Answering defendants deny the allegations of paragraph 26 of Plaintiffs' Complaint.

27. Answering defendants deny the allegations of paragraph 27 of Plaintiffs' Complaint.

28. Answering defendants deny the allegations of paragraph 28 of Plaintiffs' Complaint, as stated.

29. Answering defendants deny the allegations of paragraph 29 of Plaintiffs' Complaint.

30. Answering defendants deny the allegations of paragraph 30 of Plaintiffs' Complaint.

31. Answering defendants deny the allegations of paragraph 31 of Plaintiffs' Complaint.

32. Answering defendants deny the allegations of paragraph 32 of Plaintiffs' Complaint.

33. Answering defendants deny the allegations of paragraph 33 of Plaintiffs' Complaint.

As for the unnumbered paragraph which reads, "As a result of the Defendants'…," the answering defendants deny all he allegations contained therein.

PRAYER FOR RELIEF

As for the last unnumbered paragraph which commences, "Plaintiff prays for actual, compensatory…," answering defendants deny each and every allegation contained therein, including subsections A and B, and would affirmatively aver that the Plaintiffs are not entitled any relief whatsoever.

SEVENTH DEFENSE

Answering defendants are protected by and invoke all the immunities granted by judicial, common law, and statutory sovereign immunity.

EIGHTH DEFENSE

Answering defendants allege that they met or exceeded the requirements of law and due care and that they are guilty of no acts or omissions which either caused or contributed to the incident in question.

NINTH DEFENSE

Answering defendants allege that Plaintiffs' claims are barred by the applicable statute of limitations, *res judicata*, collateral estoppel, laches, waiver, contributory negligence, accord and satisfaction, lack of standing, release, and/or estoppel.

TENTH DEFENSE

Any and all actions taken with respect to Plaintiff were not based upon any prohibited factors or upon any unlawful or impermissible reasons, but were taken in good faith, for legitimate reasons and based upon legitimate factors that included job performance, level of professional and judgment, level of responsibilities, market forces, salary history, total years of experience, years of experience in the job, certification, number of contract days worked, length of work day, and/or budgetary concerns.

ELEVENTH DEFENSE

Answering defendant did not engage in any unfavorable or adverse employment action that gave rise to an inference of discrimination against Plaintiffs on account of race, sex or gender.

TWELTH DEFENSE

Plaintiffs failed to mitigate their damages.

THIRTEENTH DEFENSE

Answering defendants did not engage in any unfavorable or adverse employment action that gave rise to an inference of discrimination against Plaintiffs on account of race.

FOURTEENTH DEFENSE

Answering defendant did not engage in or take any cognizable adverse personnel action against Plaintiff.

FIFTEENTH DEFENSE

No causal link exists between any protected activity engaged in by Plaintiff and any unfavorable or adverse employment action against Plaintiff.

SIXTEENTH DEFENSE

Plaintiffs' failure to show that they have been treated differently from other employees in similar situations is fatal to their claim of race discrimination violative of Title VII and requires dismissal.

SEVENTEENTH DEFENSE

Answering defendant alleges that it met or exceeded the requirements of law and due care and that it is guilty of no acts or omissions which either caused or contributed to the incident in question.

EIGHTEENTH DEFENSE

Answering defendant alleges that Plaintiff's claims are barred by the applicable statute of limitations, *res judicata*, collateral estoppel, laches, waiver, contributory negligence, accord and satisfaction, lack of standing, release, and/or estoppel.

NINETEENTH DEFENSE

The Plaintiff is not entitled to recover any enhanced, punitive, or exemplary damages, as provided by Miss. Code Ann. § 11-46-15, insofar as any state law claims are concerned. Additionally, answering defendant would affirmatively state that the

Plaintiff is not entitled to recover enhanced, punitive, or exemplary damages, the same being violative of the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the Constitution of the United States and Article III, Section 14 of the Constitution of the State of Mississippi, inclusive of, but not necessarily limited to, the following separate and several grounds:

(a) The procedures may result in the award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing.

(b) The procedures fail to provide means for awarding separate judgments against alleged joint tortfeasors.

(c) The procedures fail to provide a limit on the amount of the award against the defendants.

(d) The procedures fail to provide specific standards for the amount of the award of punitive damages.

(e) The procedures permit award of punitive damages upon satisfaction of a standard of proof less than that applicable to the imposition of criminal sanctions.

(f) The procedures permit multiple awards of punitive damages for the same alleged act.

(g) The procedures fail to provide a clear consistent appellant standard of review of an award for punitive damages.

(h) The procedures may permit the admission of evidence relative to punitive damages in the same proceedings during which liability and compensatory damages are determined.

(i) The standard of conduct upon which punitive damages are sought is vague.

TWENTIETH DEFENSE

Answering defendant exercised reasonable care to prevent and correct promptly any unlawful behavior and Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant or to avoid harm otherwise.

TWENTY-FIRST DEFENSE

Answering defendant reserves the right to add additional defenses as the same become known during the course of discovery of this cause.

TWENTY-SECOND DEFENSE

Defendant Jody Ashley would assert that he is entitled to qualified immunity in his individual capacity. More specifically, the Ashley would affirmatively assert that Plaintiffs' Complaint, fails to allege a violation of a clearly established constitutional right and, at all times, his conduct was objectively reasonable under the circumstances.

TWENTY-THIRD DEFENSE

Answering defendants reserve the right to add additional defenses as the same become known during the course of discovery of this cause.

TWENTY-FOURTH DEFENSE

Answering defendants deny any allegations which are not specifically admitted hereinabove.

TWENTY-FIFTH DEFENSE

At all times, Sheriff Jody Ashley was acting within the scope and course of his employment as the duly-elected sheriff and, therefore, cannot be held liable in their individual capacities insofar as any state court claims are concerned.

TWENTY-SIXTH DEFENSE

Sheriff Jody Ashley was at all times acting in the official scope of his duties as a law enforcement officer of Wayne County, Mississippi, and at all times material to the allegations of the Complaint his actions were in good faith, without malice and within the scope and course of his employment.

And now, having answered the Complaint filed against them, answering defendants request that the same be dismissed and that the Complaint be discharged with costs assessed against the Plaintiffs.

DATE: November 15, 2016.

Respectfully submitted,

WAYNE COUNTY, MISSISSIPPI AND JODY ASHLEY

BY: */s/William R Allen*
One of Their Attorneys

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CERTIFICATE

I, the undersigned of Allen, Allen, Breeland & Allen, PLLC, hereby certify that on this day, I electronically filed the foregoing Wayne County, Mississippi and Jody Ashley's Answer to Plaintiffs' Complaint with the Clerk of the Court which gave notice of the same to:

Daniel M. Waide, Esq.
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The 15th day of November, 2016.

/s/William R. Allen
OF COUNSEL